

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

v.

CASE NUMBER: 2:06 CR 63

VIKRAM S. BUDDHI

Defendant.

**MOTION FOR IMMEDIATE DISMISSAL OF THE
ELEVEN COUNT INDICTMENT BASED ON THE GOVERNMENT'S
FAILURE TO FILE A RESPONSE TO DEFENDANT'S MOTIONS TO DISMISS**

Comes now Defendant, by counsel, John E. Martin, and requests this Honorable Court to dismiss the eleven count Indictment against the defendant.

1. On February 23, 2007, the defense filed a Motion to Dismiss as a Matter of Law for Failure to State an Offense and a Motion to Dismiss Due to Defective Indictment.

2. A Pretrial Conference was held on March 9, 2007 before Judge Andrew P. Rodovich. The government appeared by Assistant United States Attorney Philip C. Benson. Judge Rodovich ordered the government to file a response to the pending motions to dismiss by March 23, 2007.

3. On March 23, 2007 the government filed a Motion for Extension to file its written response up to and including March 30, 2007. The government based its Motion "upon the assigned government counsel's need for additional time and the inability for another AUSA has to be reassigned to this case, learn the file and prepare responses on such short notice."

[Government Motion for Extension p. 1]. Attorney Benson indicated that he "need[ed] additional

time to review the legal issues raised in these motions." [Government Motion for Extension p. 1].

4. On March 27, 2007 Judge Rodovich granted AUSA Benson's Motion for Extension ordering the government to file a written response by March 30, 2007.

5. The government failed to file a written response.

6. More than thirty-eight days have passed since the defense filed a Motion to Dismiss for Failure to State an Offense and a Motion to Dismiss Due to Defective Indictment.

7. On April 26, 2006 Judge Rodovich, in an Order issued at defendant's arraignment, ordered that the failure of the government to file a written response to defendant's motion to dismiss "will be deemed the government's admission that the relief requested by defendant should be granted." [Order dated April 26, 2006 p. 3].

WHEREFORE, in failing to file a response to defendant's Motion to Dismiss for Failure to State an Offense and Motion to Dismiss Due to Defective Indictment, per Judge Rodovich's Order dated April 26, 2006, the government must be deemed to have admitted that the relief requested by defendant should be granted. The eleven count Indictment must be dismissed.

Respectfully submitted,

Northern District of Indiana
Federal Community Defenders, Inc.

By: s/John E. Martin
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CERTIFICATE OF SERVICE

I hereby certify that, on April 3, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/CM/ECF system which sent notification of such filing to the following:

Philip Craig Benson
philip.benson@usdoj.gov

and I hereby certify that I have mailed the document by U.S. Postal Service to the following non CM/CM/ECF participants:

s/ John E. Martin